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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,237	02/12/2002	Frederick J. Hudson	01-40451-US	6231

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EXAMINER

BORISOV, IGOR N

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/074,237	HUDSON, FREDERICK J.
	Examiner Igor Borissov	Art Unit 3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 May 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-19 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Upon reconsideration, claim rejection under 35 USC § 103 as applied to claims 1-7 and 11-19 has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 11-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Cowe et al. (US 5,671,362).

Cowe et al. teach an inventory monitoring method and system, comprising:

As per claims 1 and 15,

coordinating of at least one portion of the materials management system at a remote operation center (column 11, line 48 – column 12, line 3; column 26, lines 40-46);

externally transmitting at least one attribute to the remote operation center from at least one receiving station (column 7, line 61 – column 8, line 5);

receiving the at least one attribute of at least one material flow item in the at least one portion of the materials management system at the remote operation center (column 11, line 48 – column 12, line 3; column 26, lines 40-46);

updating the at least one attribute to at least one updated attribute at the remote operation center (column 21, lines 30-46);

externally transmitting the at least one update attribute from the remote operation center to the at least one receiving station (column 21, lines 30-46);
reconciling the at least one attribute and the at least one updated attribute (column 21, lines 30-46).

As per claim 2, said method and system, wherein the remote operation center is accessible from any communicative connection with the external interconnection (column 7, line 61 – column 8, line 5).

As per claim 3, said method and system, wherein the at least one attribute and the at least one updated attribute comprise at least one selected from the group consisting of a specific location, color, shape, size, addressee, status, a signatures record, present location, desired delivery destination, contents, and weight (column 7, line 61 – column 8, line 5).

As per claims 4-6, said method and system, wherein the copy link provides a link from the remote operation center to real-time operations at least one of the receiving stations (column 5, lines 27-45).

As per claim 7, said method and system, wherein the at least one receiving station comprises an infrared scanner communicatively connected to a programmable electronic device (column 7, line 61 – column 8, line 5).

As per claim 11, said method and system, wherein at least one receiving station comprises a barcode printer (column 9, line 65 – column 10, line 2).

As per claim 12, said method and system, wherein at least one updated attribute comprises previous ones of the receiving stations through which the at least one material flow item has passed (column 21, lines 30-46).

As per claim 13, said system, including receiving stations (shelves). Information as to *final* is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembicza*k 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).

As per claim 14, Cove et al. teaches: scanning the at least one inventoried item upon entry into the materials management flow at each of plurality of receiving stations (shelves) (column 3, lines 19-21; column 7, line 61 – column 8, line 5). Information as to *secondary* and *tertiary* is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembicza*k 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).

As per claim 16, Cove et al. teach all the limitations of claim 16, including:
receiving the at least one updated attribute at an at least one local receiving station (column 9, line 65 – column 10, line 2; column 10, lines 18-21);
transmitting an at least one local attribute, from the at least one local receiving station, to a remote operation center (column 9, lines 60-65);

wherein the at least one updated attribute, and the at least one local attribute at the local receiving station, and a receipt of the transmitted at least one local attribute at the remote operation center, are reviewable at the at least one local receiving station (Fig. 4; column 11, lines 37-39; 55-61). Information as to *reviewable substantially simultaneously* is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999). The specific example of non-functional descriptive material is provided in MPEP 2106, Section VI: (example 3) a process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed. The method steps, disclosed in would be performed the same regardless.

As per claims 17-19, said method and system, further comprising controlling the material flow of the controlled material at said at least one receiving station in accordance with the at least one modified attribute and the at least one updated attribute (column 11, line 62 – column 12, line 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowe et al. in view of Markham et al. (US 2003/0158795).

As per claims 8-10, Cove et al. teach all the limitations of claims 8-10, except that the programmable device is a PDA.

Markham et al. teach a method and system for storing a data associated with a material during manufacturing, wherein a PDA may be used for collecting and transmitting said data [0287].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Cove et al. to include that the programmable device is a PDA, as disclosed in Cove et al. because it would increase the versatility of the system by employing it in the area where wire communication is not available.

Response to Arguments

Applicant's arguments filed 5/04/2004 have been fully considered but they are not persuasive.

In response to the applicant's argument that Cowe et al. (hereinafter Cove) fails to disclose *at least one attribute of at least one material*, the examiner points out that Cowe specifically teaches monitoring a footprint, a shelf location and a bar-code identifier associated with each item (C. 11, L. 31-39).

In response to applicant's argument that Cowe fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *information item such as office or person*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to the applicant's argument that Cowe fails to disclose *real-time tracking*, the examiner points out that Cowe specifically teaches tracking movements of materials inventory (C. 1, L. 11-12; C. 4, L. 52-53) in real-time environment (C. 3, L. 47; C. 5, L. 39).

In response to the applicant's argument that Cowe fails to disclose the *secondary* and *tertiary* stations, examiner points out that Cowe specifically teaches scanning the at least one inventoried item upon entry into the materials management flow at each of *plurality* of receiving stations (shelves) (C. 3, L. 19-21; C. 7, L. 61 – C. 8, L. 5). Information as to *secondary* and *tertiary* is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308- 2702.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington D.C. 20231

or faxed to:

(703) 305-7687 [Official communications; including After Final
communications labeled "Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.



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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600